## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

KIN-YIP CHUN, Individually and on Behalf § of All Others Similarly Situated, § Plaintiff, § Civil Action No. 3:18-cv-01338-X

vs. § <u>CLASS ACTION</u>

FLUOR CORPORATION, et al.,

Defendants.

<u>DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND</u>
<u>TO PLAINTIFFS' MOTION TO SUPPLEMENT OR AMEND</u>

Defendants respectfully seek an extension of time, from November 19, 2020, to December 14, 2020, for filing a response to Plaintiffs' Motion to Supplement or, in the Alternative, Amend the First Amended Consolidated Complaint (Dkt. 130) ("Motion to Amend"). With this extension, Defendants' deadline for responding to Plaintiffs' Motion to Amend will be the same date as Defendants' deadline for filing their reply in support of their Motion to Dismiss ("Reply").

Defendants request this extension because of the substantial overlap between Defendants' forthcoming Reply and their opposition to Plaintiffs' Motion to Amend. Plaintiffs move to supplement or amend based on Fluor's financial restatement, and they also seek judicial notice of Fluor's financial restatement as part of their opposition to the Motion to Dismiss. Because Defendants need to respond to Plaintiffs' arguments related to Fluor's financial restatement in both filings, it would be much more efficient for Defendants to file those responses at the same time. Additionally, Defendants anticipate arguing that Plaintiffs' Motion to Amend should be denied, at least in part, based on futility, which courts in this District have recognized overlaps with the merits

that are to be considered on a motion to dismiss. *See Reyes v. Topgolf Int'l, Inc.*, 2018 WL 704734, \*4 (N.D. Tex. Feb. 5, 2018).

Counsel for Defendants have conferred with counsel for Plaintiffs, who indicated they do not oppose Defendant's extension motion provided that Plaintiffs' deadline for filing their reply in support of the Motion to Amend is also extended, from December 28, 2020, to January 8, 2021, in light of the holiday period. Defendants are not opposed to that request.

Accordingly, Defendants respectfully request that the Court set December 14, 2020, as the deadline for Defendants to respond to Plaintiffs' Motion to Amend, and set January 8, 2021, as the deadline for Plaintiffs to file their reply in support of their Motion to Amend.

DATED: November 16, 2020 Respectfully submitted,

## /s/ Michael L. Raiff

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**COUNSEL FOR DEFENDANTS** 

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**CERTIFICATE OF SERVICE** 

I hereby certify that on the 16th day of November, 2020, the foregoing document was filed

using the Court's CM/ECF system. In addition, (1) the filing is available for viewing and

downloading via the CM/ECF system, and (2) the CM/ECF system will send notification of this

filing to all attorneys of record who have registered for CM/ECF updates.

/s/ Michael L. Raiff

Michael L. Raiff

**CERTIFICATE OF CONFERENCE** 

Lissa Percopo, counsel for Defendants, conferred with Darryl Alvarado, counsel for Lead

Plaintiffs, on November 11, 2020, via email. Plaintiffs informed Defendants that they do not

oppose Defendants' request for an extension provided that Plaintiffs' reply brief deadline is

extended to January 8, 2021.

<u>/s/ Michael L. Raiff</u>

Michael L. Raiff

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